OIPE JC141
SEP 07 2004
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING

I hereby certify that this AMENDMENT AND RESPONSE is being deposited with the United States Postal Service in an envelope with sufficient postage as Express Mail, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the following date:

September 07, 2004

Date

EL 981814020 US

Express Mail No.

Courtney J. Miller

Courtney J. Miller

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Douglas R. Lamb	Examiner:	Marianne S. Ocampo
Serial No.:	10/056,277	Art Unit:	1723
Filed:	01/24/2002	Attorney Docket:	28608/04000
For:	**FLUID RECEPTACLE AND FILTER UNIT**		

MAIL STOP APPEAL BRIEFS - PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CUSTOMER NO.: 24024

APPEAL BRIEF UNDER 37 C.F.R. § 1.192

Further to the Notice of Appeal filed on April 07, 2004, this Appeal Brief is responsive to the Final Office Action dated January 07, 2004. A petition for a three-month extension of time is being filed contemporaneously with this Appeal Brief, as is an Amendment After Final Rejection, and the Commissioner for Patents is hereby authorized to charge any and all required fees to Deposit Account No. **030172** (Calfee, Halter & Griswold LLP).

09/09/2004 CNGUYEN 00000043 030172 10056277
02 FC:2402 165.00 DA

I. REAL PARTY IN INTEREST

The Inventor and Appellant, Douglas R. Lamb, is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

To the knowledge of the Appellant or his Representative, there are no other appeals or interferences that will directly affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS

Claims 1, 4-10, 12 and 13 are pending in this Application. In a Response to the First Office Action, the Appellant cancelled, without prejudice, claims 2-3, 11, 14-19. Claims 1, 4-10, 12 and 13 currently stand as rejected by the Patent Office and the Appellant appeals the rejection of claims 1, 4-10, 12 and 13.

IV. STATUS OF AMENDMENTS

A first Amendment was filed, prior to final action, on September 23, 2003. The Amendment cancelled, without prejudice, claims 2-3, 11, 14-19 and amended claims 1, 4-10, and 12-13. An Amendment After Final Rejection, which is the only amendment filed subsequent to the final rejection of the claims by the Patent Office, is being filed contemporaneously with this Appeal brief to address certain objections expressed by the Examiner the Final Office Action (paragraph 1) regarding claim 5.

V. SUMMARY OF INVENTION

The present invention is directed to a filtration system for separating particles of dirt, gravel, grit, and other potentially damaging debris from a wash fluid such as water when such fluid is contained in a receptacle such as a bucket. In the exemplary embodiment shown in FIGS. 1-3 and described in detail on pages 4-6 of the specification as originally filed (pages 1-2 of the published application, the system comprises (i) a filter assembly; and (ii) a receptacle for use with the filter assembly. The filter assembly further comprises a screen-like filter component, the shape of which corresponds to the shape of the receptacle, and a plurality of baffles attached to or formed as part of the filter component. The baffles are attached at right angles to the bottom or

downward facing side of the filtration component and serve the purposes of (i) elevating the screen-like filter component off the bottom of the receptacle, and (ii) reducing the motion of water or cleaning fluid in the bottom of the receptacle when the filter assembly is properly placed within the receptacle and the filtration system is in use.

The filter component is typically made from a hard mesh, screen, or any other suitable screen-like material. In the exemplary embodiment, the upward facing side of the filter component includes a plurality of crossbars that are tapered to minimize the upper surface area of the filter component and that facilitate the retention of dirt particles below the filter assembly. An o-ring or similar structure encircles the outer edge of the filter component for securing the filter assembly in the receptacle and, in the exemplary embodiment, the filter component includes at least one aperture that passes though the filter component and provides a means by which a user of the system may easily grasp and remove the filter assembly from the receptacle. The aperture or apertures are defined by a band or ring of material that is either separate from the material of the filter component or formed from the material of the filter component and assist the user in grasping the filter assembly.

VI. ISSUES

The following issues are presented for review (i) whether claims 1,4-6 and 8-10 are patentable under 35 U.S.C. § 102(b) over Hodgkins et al. (U.S. 5,807,481); (ii) whether claims 7 and 12 are patentable under 35 U.S.C. § 103(a) over Hodgkins in view of Fox (U.S. 865,691); and (iii) whether claim 13 is patentable under 35 U.S.C. § 103(a) over Hodgkins et al.

VII. GROUPING OF CLAIMS

The rejected claims have been grouped together in each of the rejections. The Appellant urges that each of the rejected claims stands on its own recitation, the claims being considered to be separately patentable for reasons set forth in greater detail below.

VIII. THE REFERENCES

The following references are relied upon by the Examiner:

Hodgkins et al.	US	5,807,481	September 15, 1998
Fox	US	865,691	September 10, 1907

IX. BRIEF DESCRIPTION OF THE REFERENCES

Hodgkins et al. discloses a filter assembly for filtering oil in an internal combustion engine. This filter assembly includes a base and cover member which together enclose a planar filter element. Each of the base and cover members has a planar face with a central overpressure opening for an over pressure valve, and a radially-extending channel extending from a port on the side of the base or cover member radially inward to the central overpressure opening. A plurality of radially extending ribs is disposed around the planar surface. The ribs define radial fluid flow paths for even distribution of fluid across the planar face, as well as support a surface of the planar filter member.

Fox discloses a rapid pressure filter for use in a carbonating apparatus. The filter includes opposite detachable tapering sections each having a central nozzle and a cylindrical recess with annular rubber packing fitted therein. A filter disk of fibrous material is fitted between the two packings.

X. ARGUMENT

The Issues Under 35 U.S.C. § 102(b)

Claims 1, 4-6, and 8-10 stand as rejected under 35 U.S.C. § 102(b) as being anticipated by Hodgkins et al. (U.S. 5,807,481). Claim 1 is an independent claim and claims 4-6 depend from claim 1. Claim 8 is an independent claim and claims 9-10 depend from claim 8.

As provided by MPEP 2131, anticipation of a claim under 35 U.S.C § 102 (a), (b), or (e) requires that a reference must teach every element of the claim arranged as required by the claim. Regarding claim 1, the Examiner states on page 3 of the Final Office Action that the claimed element "*a plurality of baffles attached to, or formed integrally with one side of said filter component for reducing the motion of said fluid around and through said filter assembly, and*

wherein said baffles substantially traverse the length and width of said filter component at right angles to said filter component" is anticipated by the ribs (76) that form part of the enclosure (i.e., part of the base (14)) disclosed in Hodgkins et al (see FIGS. 1 and 2).

Even a cursory comparison of the cited reference and the claimed invention reveals that the ribs (76) disclosed in Hodgkins et al. are not the same type of structure as the baffles disclosed and claimed by the Appellant (see FIG. 2B of Appellant's application). The ribs (76) disclosed in Hodgkins et al. are part of a separate enclosure apparatus used in combination with the filter component (70) and are not attached to or formed integrally with the filter component in the manner described by the Appellant on page 5 of the specification as originally filed (page 2 of the published application). Furthermore, as shown in FIG. 2 of Hodgkins et al., the ribs (76) do not substantially traverse the length and width of the filter component because, as described in the specification (col. 5, lines 59-67 and col. 6, lines 1-65), there two sets of short ribs concentrically arranged on the base (14), and these ribs are interrupted at the location of the radial channel (44) and opening (42) (see FIG. 1). Finally, in the Abstract, the stated purpose of the ribs is to "define radial fluid flow paths for even distribution of fluid across the planar face ..." which indicates that the ribs actually *increase* the motion of oil around and through the filter assembly disclosed by Hodgkins et al. This stated purpose is exactly opposite the stated purpose of the baffles (24) of the Appellant's invention, further supporting the assertion that the two structures are in no way alike. Thus, due to these dissimilarities, it cannot reasonably be said that Hodgkins et al. teaches each every element of claim 1 arranged as required by the claim. Therefore, the Appellant asserts that claim 1 defines patentably over the prior art and that the rejection of claim 1 based on Hodgkins et al. is inappropriate. The Appellant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(b) be reversed.

Regarding claims 4-6, which depend from independent claim 1, the argument in favor of patentability for claim 1 presented in the previous paragraph makes further discussion of these claims unnecessary. The Appellant does, however, wish to assert that the Examiner's rejection of claim 5 (see page 3 of the Final Office Action) based on the disclosure of an aperture (60) passing through the filter component (70) taught by Hodgkins et al. is not based on any technical information disclosed in the cited reference. No physical dimensions for the filter assembly and its components are disclosed in Hodgkins et al., so it is unclear to the Appellant how the

Examiner could have reached the conclusion that the aperture (60) is of sufficient size to accommodate a human finger or thumb. The Appellant also asserts that this limitation (found in claims 5 and 9 of the Appellant's application) is not indefinite because despite some variance, most human fingers or thumbs are similar enough in size for one skilled in the art to appreciate the dimensions in question given the stated purpose of the aperture. Therefore, the Appellant respectfully requests that the rejections of claims 4-6 under 35 U.S.C. § 102(b) be reversed.

Regarding the Examiner's rejection of claim 8 under 35 U.S.C. § 102(b) as being anticipated by Hodgkins et al., the Appellant asserts the argument presented above in favor of the patentability of claim 1 also applies to this rejection due the inclusion of the same "baffles" in claim 8. Furthermore, the Appellant asserts that the receptacle, i.e., a bucket, disclosed and claimed by the Appellant (see FIGS. 1A-C of the present application) is nothing like the complex two-part enclosure disclosed in Hodgkins et al. (see FIG. 1 of Hodgkins et al.). Additionally, as shown in FIGS. 1 and 2 of Hodgkins et al., both the base and the cover include an opening (42), so it is unclear to the Appellant how the Examiner can equate the enclosure of Hodgkins et al. with the receptacle of the present application. Thus, the cover (12) and the base (14) assembly of Hodgkins et al. does not anticipate the receptacle (26) taught by the Appellant as stated by the Examiner on page 4 of the Final Office Action. Claims 9 and 10 both depend from claim 8, and given the arguments present herein regarding claim 8 (and claim 5), are also considered to define patentably over the prior art. Therefore, the Appellant respectfully requests that the rejections of claims 8-10 under 35 U.S.C. § 102(b) be reversed.

It should be noted that as compared to claim 1, claim 8 includes additional patentable features, namely the receptacle for use with the filter assembly. Thus, claim 8 is not grouped with claim 1 for the purposes of this appeal and should be considered on its own merits. Furthermore, each of the dependent claims, including those rejected under 35 § U.S.C. 103(a), should not be grouped with its respective independent claim(s) because each dependent claim adds an additional patentable element or limitation to the claim from which it depends.

The Issues Under 35 U.S.C. § 103(a)

Claims 7 and 12 stand as rejected under 35 § U.S.C. 103(a) as being unpatentable over Hodgkins et al. in view of Fox (U.S. 865,691). Claim 13 stands as rejected under 35 § U.S.C. 103(a) as being upatentable over Hodgkins et al. Claim 7 depends from claim 1 and claims 12 and 13 depend from claim 8. Sections 2142 and 2143 of the MPEP provide that establishing a *prima facie* case of obviousness requires that (i) there be some suggestion or motivation, either in the references themselves or in the knowledge generally available to on of ordinary skill in the art, to modify the reference or combine the reference teachings; (ii) there must be a reasonable expectation of success; and (iii) the prior art reference(s) must teach or suggest all of the claim limitations. The third requirement of the *prima facie* case for obviousness is not met regarding claims 7, 12, and 13 because Hodgkins et al. does not teach nor suggest all of the limitations included in the independent claims from which claims 7, 12, and 13 depend. As argued above, Hodgkins et al. does not teach baffles such as those claimed by the Appellant in claims 1 and 8, nor does it teach a receptacle such as that claimed by the Appellant in claim 8. Thus, because the *prima facie* case of obviousness has not been met regarding independent claims 1 and 8, the Appellant asserts that dependent claims 7, 12, and 13 are not obvious in view of the cited prior art, i.e., Hodgkins et al., and that the rejection of these claims under 35 § U.S.C. 103(a) should be reversed.

XI. CONCLUSION

For the reasons stated above, the Appellant respectfully urges that the rejection of claims 1, 4-10, 12 and 13 is improper. Reversal of these rejections is respectfully requested.

Respectfully submitted,

Date: 02/07/04

Courtney J. Miller
Attorney for Appellant / Reg. No. 45,366
Calfee, Halter & Griswold LLP
1100 Fifth Third Center / 21 East State Street
Columbus, Ohio 43215
(614) 621-7015

APPENDIX I

CLAIMS INVOLVED IN APPEAL

1. A filtration system, comprising: a filter assembly, wherein said filter assembly further comprises a filter component and a plurality of baffles attached to, or formed-integrally with one side of said filter component for reducing the motion of said fluid around and through said filter assembly, and wherein said baffles substantially traverse the length and width of said filter component at right angles to said filter component.

4. The system of claim 1, wherein said filter component further comprises an o-ring encircling the perimeter of said filter component.

5. The system of claim 1, wherein said filter component further comprises at least one aperture passing though said filter component for providing a means by which a user of said system may easily remove said filter assembly from said receptacle, and wherein said aperture is of sufficient size to accommodate a human finger or thumb.

6. The system of claim 5, wherein said at least one aperture is defined by a band of material, and wherein said band of material is separate from the material of said filter component or formed integrally with the material of the filter component.

7. The system of claim 1, wherein the top side of said filter component further comprises crossbars the topmost edges of which are tapered to minimize the surface area of said filter component.

8. A filtration system, comprising:

(a) a receptacle, wherein said receptacle further comprises a closed bottom portion and an open top portion; and

(b) a filter assembly, wherein said filter assembly further comprises:

(i) a filter component shaped to correspond to the dimensions of said receptacle;

(ii) an o-ring encircling the perimeter of said filter component for forming a seal with said receptacle; and

(iii) a plurality of baffles attached to or formed integrally with one side of said filter component for reducing the motion of said fluid around and through said filter assembly, and wherein said baffles substantially traverse the length and width of said filter component at right angles to said filter component.

9. The system of claim 8, wherein said filter component further comprises at least one aperture passing though said filter component for providing a means by which a user of said system may easily remove said filter assembly from said receptacle, and wherein said aperture is of sufficient size to accommodate a human finger or thumb.

10. The system of claim 9, wherein said at least one aperture is defined by a band of material, and wherein said band of material separate from the material of said filter component or formed integrally with the material of the filter component.

12. The system of claim 8, wherein the top side of said filter component further comprises crossbars the topmost edges of which are tapered to minimize the surface area of said filter component.

13. The apparatus of claim 8, wherein said filter assembly and receptacle are fabricated as a single integrated and inseparable unit.

APPENDIX II

REFERENCES RELIED UPON BY EXAMINER